

would have the better of me in this arrangement as most of them were merchants. Mr. Austen told me that he had

I with the President, and he told me that the President preferred I would address a communication on the subject. Mr. Fullerton—This will never be allowed to tell this long story. Witness—

be seen quite full the whole of the night. Mr. Counsel should be questioned as to you by the Committee and I should be on either side. We are here to investigate the You are not on trial. Witness—But the counsel ask me questions on subjects that I was to answer would like to think the Committee should be on the evidence. Bill shown, the first charge for \$1,500 for extra services at night. Mr. F. said to this. I suppose we do not come here to try to equity of that bill at all or for no matter it was conceived in sin or brought forth in iniquity and make matter for investigation. Mr. F. said, I will now before a Court of law, and that is sufficient. Mr. Shannon—The Counsel should have been in evidence when I objected to it, and now they hide the consequences of their own act. Mr. F. said, I will having been made a witness of the defendant, and I think he should be allowed to proceed. Person—Very well Witness—The first item in the bill, \$500 for extra services at night for watchman, for 10 years at \$500 per annum. I say I performed no services, and they were not paid for. The next item—Sundays they were valuable and they were paid to the Institution, and were worth the amount in my judgment, the third charge is for \$939 for disorder in the Gallery during that period of exhibition. The Institution was much annoyed by persons of a bad character coming in, and they were sent out. I think them for the purpose of keeping out of the Institution. I got a deputation from the rough one of the members of the Committee, and I went I have in my possession at this moment, and I did the duty to the best of my ability, the next item is for \$1,000 for a house in the Seventeenth Ward, for which I went, and during that year the Superintendent was sick and I had to perform his duties as my own, and in consequence had to remain in the Institution till late at night, at that time I was not a President of the Humane Society, the Society of the Arts

to give the assurance that any extra rent which I have to pay, would be made good to me by the Institute, and removed to the immediate credit of my account. I certainly did not get a cent more than I was at least, and it cost \$50 more than I had previously paid. The deficiency in the cash account in 1849 was \$28 83, and this I made good to morally or legally speaking, I was not a penny out of pocket, which I also made good and a charge for performing the duties of the Correspondent during his illness and absence from the institution for which I charge \$33. I have at the same rate of pay for the duties which I performed as he did not. Mr. Taylor—Did the idea that there was a deal of money in the funds of the Art Union have about to be closed by the Court of Appeals, and that the money was to be used for the purpose as a reason for making the charges, that you would have a slice of the money as another? Mr. T.—I object to that question. I do not think it is to be put by counsel or by a member of the Association. I have no objection to Mr. Taylor's wanting to come in, and am surprised an objection would come from you. Mr. F.—Yes, we do want him from the witness. However, I will withdraw my question read. Mr. F.—I might say, I was not asked a question by the witness. The question is asked by me.—Certainly by me, but I ask it after consulting with Mr. Fullerton—I suppose I will be a

put the same question to the witnesses, on the defense. Mr. Shannon: "When the time comes we will be able to answer that question, but I am not sufficiently at present, and I think you are ground-work for more. Mr. Clapp: "Let him answer, I never occurred to me in the world; the talk was not because the money was due me, but because I was not going to be paid. I would have paid me without any legal controversy. I have been told by Mr. Fullerton if I was unfriendly with Mr. Austen, he would have been able to explain his conduct as Treasurer of the Committee. I have been told by other members of the Committee and others, had purchased imported works of art and foreign productions, contrary to the constitution of the Institution and as a speculation. I was asked why I suspected the institution, and I said, I suspected the institution as an additional reason why I did entertain a toward him. These works of art were purchased from Messrs. Stephens, Broadway, and afterward sent to be deposited at the Academy. I would have been able to know that Mr. Austen had purchased his own purchases of works of art—his own to the Art Union, at a price far above their value, and to this item of \$341,250, I want to explain, I went to the bank, and I said to the Cashier, Mr. Austen and I had been told, when Mr. Austen told me that Westernware gave a check on the bank for the purpose of harmonizing the affairs of the in-

Mr. Austen and Mr. Cozzens told me that this was the first time that the General had been told of Warner with receiving improperly. These men present when they told me, I wish to state to the question which Mr. Fullerton asked, "did I receive or Benedict was present," but I said no such thing. I said that I did not know whether or not I want to get in as much as I can to justify myself to the Committee. Mr. Clapp—You are not here. Witness—Mr. Fullerton put me so. With the letter addressed to A. M. Cozzens, dated Aug. 18, 1862, and the letter of the 20th, and the advances made by me, and that being shortly after day, when the landlords are up for their money, I said to my Chairman as too long. Witness—I concur in this testimony is pertinent; it will explain why I did not go to the General's house, and as he told me, advised him to pay me the money advanced for the institution, and the General said that Mr. Austen felt hurt, for, he said, that I was the officers of the institution, and the General was mistaken. George—He called Mr. George, and he told me not to do anything wrong, and that he would see him again, on the strength of reputation, and the General was inclined to think that I was right. Witness—He said no; give me another, signed the letter, signed me back to the General, and then which brought me back to my opinion, that Mr. Austen was not a square man. I think so yet, and I also want to state, that,

asked by the petitioners to proceed with it, the members were desirous to get the named men in the community as members of the Committee, without reference to their skill in the various parts of the subject.

It was then again Examined by Mr. Shannon—You it direct examination that a number of the men of Management who received a picture that catalogue of distribution, had replaced it by one consisting of a picture of a man, and that he resisted, and seemed unwilling to answer. Mr. — If the witness declines to answer this from not knowing anything of this well and good, but if he does so on the ground of not being a member of the Committee, he does not want anything of the kind on the pretence of the reputation of any one. Witness—Well, I do not know, and I say I do want to save the reputation of the Committee. Witness—Well, then, I say in reply to that, that charity began at home.

I thought we settled this yesterday, but it readjust again. Witness—Col. Andrew Warner—you were clerk in the Institution, had you charge of the receipts? Witness—Yes, from 1840 to 1849 to the close of 1850, or until the middle of 1850, was the amount of receipts during the year 1849 1850 receipts were \$4,200 75; in the year 1847, in the year 1844, \$6,300 16; in the year 1845, \$10,000 00; in the year 1846, \$12,000 00; in the year 1847, \$14,000 00.

in 1826, in 1849, \$90,300; 1850, \$21,500; in this receipt are given the neighborhood of \$60,000, and the balance of the year, in that year, of the money received. The year 1850, the institution; the entire was \$46,503.20, and I received of them in liquidation of my claims on the fund the funds received had to go into the hands of the trustees of the institution, and I was satisfied as far as I know, that the money was distributed or distribution purchased by the Committee of art and from whom Mr. Fullerton objected to them which should have gone into before I received the money. The money was not the money shown in latter years in those organs which I strenuously protested. There was a laugh, and the witness appeared to the committee. The witness said there really was a grave observed, and he witnessed that the money not occur again. I witness—Yes, and they know that is true, notwithstanding all their assertions in what that partially consisted, and during the year 1850, the prosperity of the institution. W. Austen, the Treasurer, and I took a picture of his own, purchased before he had taken it as his own, or get the institution to purchase it as his own. Mr. Austen would fill up a list of art of the artist. The money would fill up a list of art of the artist, and the purchase would be made from the artist and not from Mr. Austen. I had got paid for an injudicious purchase. he had

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